



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2011 Biennium

Bill #	SB0212	Title:	Revise law for revocation of medical marijuana registration
Primary Sponsor:	Jackson, Verdell	Status:	As Introduced

- | | | |
|---|--|--|
| <input type="checkbox"/> Significant Local Gov Impact | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input checked="" type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>	<u>FY 2012 Difference</u>	<u>FY 2013 Difference</u>
Expenditures:				
State Special Revenue	\$212,586	\$189,808	\$163,304	\$161,887
Revenue:				
State Special Revenue	\$212,586	\$189,808	\$163,304	\$161,887
Net Impact-General Fund Balance	<u><u>\$0</u></u>	<u><u>\$0</u></u>	<u><u>\$0</u></u>	<u><u>\$0</u></u>

Description of fiscal impact:

SB 212 requires the Department of Public Health and Human Services (DPHHS) to revoke registration cards of a Medical Marijuana registrant or caregiver based upon violation of limitations as defined in the bill under 50-46-205.

FISCAL ANALYSIS

Assumptions:

Quality Assurance Division – Department of Public Health and Human Services

1. The Quality Assurance Division (QAD) of DPHHS is responsible for the administration of the Medical Marijuana registry and will be the agency charged with carrying out the provisions of SB 212.–
2. The operating costs for the Medical Marijuana Program (MMP) registry are funded by the registration fee charged by DPHHS for applications and renewals of registry identification cards for qualifying patients and caregivers. (50-46-210).
3. The application and renewal fees are deposited in state special revenue account to be used for program administrative costs. (account #506069).
4. The application and renewal fee is currently \$50.00.

5. During FY 2008 the total collections from application and renewal fees was \$49,900
6. During FY 2008 the total expenditures for the MMP were \$29,854.
7. Funding for the increased expenditures under SB 212 will come from state special revenue funded by the application and renewal fees for qualifying patients and caregivers.
8. The current number of qualifying patients in the MMP is 1,650.
9. The current number of caregivers in the MMP is 488.
10. The number of qualifying patients and caregivers continues to grow and currently experiences an average of over 100 new applications per month since January 2008.
11. There is no effective date in SB 212; therefore the department assumes the effective date will be October 1, 2009. Costs for FY 2010 will be calculated at $\frac{3}{4}$ of a year.
12. Provisions of 61-8-402 indicate the need to provide increased staffing of the registry to handle inquiries from law enforcement agencies to determine if an individual is on the registry. All law enforcement actions made under Title 61, Chapter 8, will require a check with the MMP registry. To provide adequate coverage, the Quality Assurance Division (QAD) Monday thru Friday, 8 am – 5pm, would require an increase of 0.5 FTE for a pay band 4, license permit technician at \$11.75 per hour X 1044 hours plus benefits, for a total of \$21,987 in salary and benefits for a full year. Based on the October 1, 2009 effective date, 75% is shown as an expenditure in FY 2010 in the Summary Table
13. DPHHS will receive the results of blood tests from law enforcement agencies as provided in 61-8-402.
14. DPHHS will also receive referrals regarding blood test results on an estimated 10% of qualifying patients and caregivers, or roughly 215 individuals.
15. Receipt of blood test results invokes a requirement for DPHHS to conduct a hearing to determine if a violation of section 50-46-205 occurred.
16. DPHHS hearings will require staffing from MMP administration, Office of Fair Hearings, and DPHHS legal services.
17. MMP administration will utilize existing staffing and the increased staffing as identified in assumption 11 above for DPHHS.
18. Section 3, 50-46-205, Page 5, line 20, identifies a “departmental hearing” to determine a violation. This hearing would be conducted by the Office of Fair Hearings.
19. The office of Fair Hearings will require 0.5 FTE to conduct the expected hearings. This position will be a pay band 7, hearings officer at \$19.90 per hour times 1044 hours is plus benefits, for a total of \$32,027 in salary and benefits for a full year. Based on the October 1, 2009 effective date, 75% is shown as an expenditure in FY 2010 in the Summary Table.
20. One-time office set up costs are included in FY 2010 for each FTE for a total of \$5,200. Ongoing operational costs such as phone and rent are included in each fiscal year for a total amount of 4,200 in FY 2010 with a 2.5% inflationary rate each year thereafter. Based on the October 1, 2009 effective date, 75% is shown as an expenditure in FY 2010 in the Summary Table.
21. Over time it is expected that revenues will equal expenditures.
22. Additional costs to the program as a result of this bill may or may not result in fees higher than the current \$50.00 per application. At the current fee schedule, 4000 applications would need to be processed in order to collect \$200,000 in revenue.
23. If this bill does not pass, the current fee schedule could be lowered as current program costs are less than expenditures.

Technology Services Division

24. DPHHS anticipates the need to develop an electronic verification for law enforcement to verify registration on the MMP registry for holidays, weekends, and after hours access. The development and implementation of a secured, encrypted, password protected, 24 hour access portal to the registry will cost \$100,000 in FY 2010 and \$50,000 in FY 2011. Ongoing operational costs would be \$20,000 for FY 2012 and \$15,000 for FY 2013.

Director's Office

25. DPHHS hearings will require legal assistance from the Office of Legal Affairs to represent the agency at the hearings and subsequent appeals for judicial review.
26. Subsequent appeals for judicial review are undetermined. Appeals would be based upon the count of revocations of registry applicants and caregivers as determined by the criteria under 50-46-205. Therefore, the count could be anywhere between 0 and 215, depending on adverse determinations from the hearings.
27. It is estimated that legal assistance from the Office of Legal Affairs would require 1.00 FTE for a pay band 7 Lawyer, at \$26.35 per hour times 2088 hours \$55,019 plus benefits, for a total salary and benefits of \$72,434. Based on the October 1, 2009 effective date, 75% is shown as an expenditure in FY 2010 in the Summary Table.
28. One-time office set-up costs are included in FY 2010 for this FTE for a total of \$2,600. Ongoing operational costs such as phone and rent are included in each fiscal year for a total amount of \$5,750 in FY 2010 with a 2.5% inflationary rate each year thereafter. Based on the October 1, 2009 effective date, 75% is shown as an expenditure in FY 2010 in the Summary Table

Judicial Branch

29. This legislation could result in a judicial review process when a medical marijuana registration is revoked. It also provides standards during judicial review for determining the violation. These additional judicial reviews may impact district court dockets, but the Judicial Branch is unable to estimate the impact on judicial workload or the fiscal impact. The cumulative impact of such legislation may over a period of time require additional judicial resources because the court dockets are already full throughout the state.
30. The fiscal impact of this legislation cannot be measured. Any expenditures would be funded with the general fund.

	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>	<u>FY 2012 Difference</u>	<u>FY 2013 Difference</u>
<u>Fiscal Impact:</u>				
FTE	1.50	2.00	2.00	2.00
<u>Expenditures:</u>				
Personal Services	\$94,836	\$129,610	\$132,850	\$136,172
Operating Expenses	\$117,750	\$60,199	\$30,454	\$25,715
TOTAL Expenditures	<u>\$212,586</u>	<u>\$189,809</u>	<u>\$163,304</u>	<u>\$161,887</u>
<u>Funding of Expenditures:</u>				
State Special Revenue (02)	\$212,586	\$189,809	\$163,304	\$161,887
TOTAL Funding of Exp.	<u>\$212,586</u>	<u>\$189,809</u>	<u>\$163,304</u>	<u>\$161,887</u>
<u>Revenues:</u>				
State Special Revenue (02)	\$212,586	\$189,809	\$163,304	\$161,887
TOTAL Revenues	<u>\$212,586</u>	<u>\$189,809</u>	<u>\$163,304</u>	<u>\$161,887</u>
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
State Special Revenue (02)	\$0	\$0	\$0	\$0

Technical Notes:

1. Section 2, 50-46-103, Page 4, line 14-16 requires the department to revoke the registration of a qualifying patient or caregiver for violation of 50-46-205. The language does not define the time period for the revocation. Clarification would be needed for DPHHS to identify if this is a permanent revocation or temporary revocation, which would allow reapplication.
2. Section 3, 50-46-205, Page 5, line 20, identifies a “departmental hearing” to determine a violation. DPHHS fair hearings are typically provided to a claimant after an adverse decision by the agency regarding the claimant’s benefits and services. Clarification is needed as to whether a registrant is afforded due process, where the agency makes an administrative determination regarding the application of the facts as identified in the blood test results as applied to the law, as defined under 50-46-205. If the result of that administrative action results in an adverse determination, then the registrant is afforded due process with a fair hearing.
3. Section 3, 50-46-205, Page 5, line 20, identifies a “departmental hearing or judicial review” to determine a violation. Clarification is needed regarding the reference to judicial review
4. Currently information on the MMP registry is available to law enforcement personnel in accordance with 50-46-103(8)(b). This is available via telephone or email, Monday thru Friday, 8am-5 pm. Clarification is needed regarding law enforcement’s access to verify registry information on a 24-7 basis.

*Sponsor’s Initials*_____
*Date*_____
*Budget Director’s Initials*_____
Date